3570, a bill to improve hydropower, and for other purposes.

S. 3575

At the request of Mr. DURBIN, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 3575, a bill to amend and reauthorize the controlled substance monitoring program under section 399O of the Public Health Service Act and to authorize the Secretary of Veterans Affairs to share information about the use of controlled substances by veterans with State prescription monitoring programs to prevent misuse and diversion of prescription medicines.

S. RES. 519

At the request of Mr. DEMINT, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. Res. 519, a resolution expressing the sense of the Senate that the primary safeguard for the well-being and protection of children is the family, and that the primary safeguards for the legal rights of children in the United States are the Constitutions of the United States and the several States, and that, because the use of international treaties to govern policy in the United States on families and children is contrary to principles of self-government and federalism, and that, because the United Nations Convention on the Rights of the Child undermines traditional principles of law in the United States regarding parents and children, the President should not transmit the Convention to the Senate for its advice and consent.

AMENDMENT NO. 4417

At the request of Mr. BAUCUS, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of amendment No. 4417 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

AMENDMENT NO. 4442

At the request of Mr. BURRIS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of amendment No. 4442 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

AMENDMENT NO. 4453

At the request of Mr. THUNE, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of amendment No. 4453 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

AMENDMENT NO. 4464

At the request of Mr. DEMINT, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of amendment No. 4464 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CARPER (for himself and Mr. BENNETT):

S. 3579. A bill to protect information relating to consumers, to require notice of security breaches, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CARPER. Mr. President, I rise today with my colleague Senator BENNETT to introduce an important and bipartisan piece of legislation that will help protect American's from identity and financial theft.

As you may have heard in the news, in 2009 Heartland Payment Systems—a national company that processes payments for retailers and restaurants located in nearly all 50 states—was hacked, leaving possibly 100 million people at risk of identity fraud or financial theft. These types of scenarios happen more than we would like and have the potential to keep American's from getting a loan, a new bank account, or—in worst case scenarios—from even paying the monthly bills. This situation is simply unacceptable and this bill will help address these serious problems.

Our bill requires entities such as financial institutions, retailers, and Federal agencies to safeguard sensitive information before it is compromised, investigate possible security breaches, and to notify customers when there is a substantial risk of identity theft or account fraud.

For example, these new requirements would apply to retailers who take credit card information, data brokers who compile private information, and government agencies that possess non-public personal information.

My colleague and I modeled our legislation after the data security and breach-response regime established under the Gramm-Leach-Bliley Act of 1999, and subsequent regulations. It also builds on existing law to better ensure federal and state regulators comply with the law and to make certain that data security procedures are uniformly applied.

Lastly, we need to replace the current patchwork of State and Federal regulations for identity theft with a national law, like this one, that provides uniform protections across the country. Our comprehensive approach will better serve consumers by making it easier for businesses and government agencies to take the steps necessary to adequately protect all Americans from identity theft and account fraud.

I look forward to working with my colleagues to get this important and necessary bill enacted before it is too late. I think everyone can agree that our identities and bank accounts are some of the most important aspects of our lives and that, if stolen, can at a minimum make life extremely difficult.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3579

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Data Security Act of 2010''.

SEC. 2. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) AFFILIATE.—The term ''affiliate'' means any company that controls, is controlled by, or is under common control with another company.

(2) AGENCY.—The term ''agency'' has the same meaning as in section 551(1) of title 5, United States Code.

(3) BREACH OF DATA SECURITY.—

(A) IN GENERAL.—The term ''breach of data security'' means the unauthorized acquisition of sensitive account information or sensitive personal information.

(B) EXCEPTION FOR DATA THAT IS NOT IN USABLE FORM.—

(i) IN GENERAL.—The term ''breach of data security'' does not include the unauthorized acquisition of sensitive account information or sensitive personal information that is maintained or communicated in a manner that is not usable—

(I) to commit identity theft; or

(II) to make fraudulent transactions on financial accounts.

(ii) RULE OF CONSTRUCTION.—For purposes of this subparagraph, information that is maintained or communicated in a manner that is not usable includes any information that is maintained or communicated in an encrypted, redacted, altered, edited, or coded form.

(4) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(5) CONSUMER.—The term ''consumer'' means an individual.

(6) CONSUMER REPORTING AGENCY THAT COMPILES AND MAINTAINS FILES ON CONSUMERS ON A NATIONWIDE BASIS.—The term ''consumer reporting agency that compiles and maintains files on consumers on a nationwide basis'' has the same meaning as in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)).

(7) COVERED ENTITY.—

(A) IN GENERAL.—The term ''covered entity'' means any—

(i) entity, the business of which is engaging in financial activities, as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k));

(ii) financial institution, including any institution described in section 313.3(k) of title 16, Code of Federal Regulations, as in effect on the date of enactment of this Act;

(iii) entity that maintains or otherwise possesses information that is subject to section 628 of the Fair Credit Reporting Act (15 U.S.C. 1681w); or

(iv) other individual, partnership, corporation, trust, estate, cooperative, association, or entity that maintains or communicates sensitive account information or sensitive personal information.

(B) EXCEPTION.—The term ''covered entity'' does not include any agency or any other unit of Federal, State, or local government or any subdivision of such unit.

(8) FINANCIAL INSTITUTION.—The term ''financial institution'' has the same meaning as in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809).

(9) SENSITIVE ACCOUNT INFORMATION.—The term ''sensitive account information'' means a financial account number relating to a consumer, including a credit card number or debit card number, in combination with any security code, access code, password, or other personal identification information required to access the financial account.

(10) SENSITIVE PERSONAL INFORMATION.—

(A) IN GENERAL.—The term ''sensitive personal information'' means the first and last name, address, or telephone number of a consumer, in combination with any of the following relating to such consumer:

(i) Social security account number.

(ii) Driver's license number or equivalent State identification number.

(iii) Taxpayer identification number.

(B) EXCEPTION.—The term ''sensitive personal information'' does not include publicly available information that is lawfully made available to the general public from—

(i) Federal, State, or local government records; or

(ii) widely distributed media.

(11) SUBSTANTIAL HARM OR INCONVENIENCE.—

(A) IN GENERAL.—The term ''substantial harm or inconvenience'' means—

(i) material financial loss to, or civil or criminal penalties imposed on, a consumer, due to the unauthorized use of sensitive account information or sensitive personal information relating to such consumer; or

(ii) the need for a consumer to expend significant time and effort to correct erroneous information relating to the consumer, including information maintained by a consumer reporting agency, financial institution, or government entity, in order to avoid material financial loss, increased costs, or civil or criminal penalties, due to the unauthorized use of sensitive account information or sensitive personal information relating to such consumer.

(B) EXCEPTION.—The term ''substantial harm or inconvenience'' does not include—

(i) changing a financial account number or closing a financial account; or

(ii) harm or inconvenience that does not result from identity theft or account fraud.

SEC. 3. PROTECTION OF INFORMATION AND SECURITY BREACH NOTIFICATION.

(a) SECURITY PROCEDURES REQUIRED.—

(1) IN GENERAL.—Each covered entity shall implement, maintain, and enforce reasonable policies and procedures to protect the confidentiality and security of sensitive account information and sensitive personal information which is maintained or is being communicated by or on behalf of a covered entity, from the unauthorized use of such information that is reasonably likely to result in substantial harm or inconvenience to the consumer to whom such information relates.

(2) LIMITATION.—Any policy or procedure implemented or maintained under paragraph (1) shall be appropriate to the—

(A) size and complexity of a covered entity;

(B) nature and scope of the activities of such entity; and

(C) sensitivity of the consumer information to be protected.

(b) INVESTIGATION REQUIRED.—

(1) IN GENERAL.—If a covered entity determines that a breach of data security has or may have occurred in relation to sensitive account information or sensitive personal information that is maintained or is being communicated by, or on behalf of, such covered entity, the covered entity shall conduct an investigation—

(A) to assess the nature and scope of the breach;

(B) to identify any sensitive account information or sensitive personal information that may have been involved in the breach; and

(C) to determine if such information is reasonably likely to be misused in a manner causing substantial harm or inconvenience to the consumers to whom the information relates.

(2) NEURAL NETWORKS AND INFORMATION SECURITY PROGRAMS.—In determining the likelihood of misuse of sensitive account information under paragraph (1)(C), a covered entity shall consider whether any neural network or security program has detected, or is likely to detect or prevent, fraudulent transactions resulting from the breach of security.

(c) NOTICE REQUIRED.—If a covered entity determines under subsection (b)(1)(C) that sensitive account information or sensitive personal information involved in a breach of data security is reasonably likely to be misused in a manner causing substantial harm or inconvenience to the consumers to whom the information relates, such covered entity, or a third party acting on behalf of such covered entity, shall—

(1) notify, in the following order—

(A) the appropriate agency or authority identified in section 5;

(B) an appropriate law enforcement agency;

(C) any entity that owns, or is obligated on, a financial account to which the sensitive account information relates, if the breach involves a breach of sensitive account information;

(D) each consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, if the breach involves sensitive personal information relating to 5,000 or more consumers; and

(E) all consumers to whom the sensitive account information or sensitive personal information relates; and

(2) take reasonable measures to restore the security and confidentiality of the sensitive account information or sensitive personal information involved in the breach.

(d) COMPLIANCE.—

(1) IN GENERAL.—A financial institution shall be deemed to be in compliance with—

(A) subsection (a), and any regulations prescribed under such subsection, if such institution maintains policies and procedures to protect the confidentiality and security of sensitive account information and sensitive personal information that are consistent with the policies and procedures of such institution that are designed to comply with the requirements of section 501(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 6801(b)) and any regulations or guidance prescribed under that section that are applicable to such institution; and

(B) subsections (b) and (c), and any regulations prescribed under such subsections, if such institution—

(i)(I) maintains policies and procedures to investigate and provide notice to consumers of breaches of data security that are consistent with the policies and procedures of such institution that are designed to comply with the investigation and notice requirements established by regulations or guidance under section 501(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 6801(b)) that are applicable to such institution; or

(II) is an affiliate of a bank holding company that maintains policies and procedures to investigate and provide notice to consumers of breaches of data security that are consistent with the policies and procedures of a bank that is an affiliate of such institution, and that bank's policies and procedures are designed to comply with the investigation and notice requirements established by any regulations or guidance under section 501(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 6801(b)) that are applicable to that bank; and

(ii) provides for notice to the entities described under subparagraphs (B), (C), and (D) of subsection (c)(1), if notice is provided to consumers pursuant to the policies and procedures of such institution described in clause (i).

(2) DEFINITIONS.—For purposes of this subsection, the terms ''bank holding company'' and ''bank'' shall have the same meaning given such terms under section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).

SEC. 4. IMPLEMENTING REGULATIONS.

(a) IN GENERAL.—Except as provided under section 6, the agencies and authorities identified in section 5, with respect to the covered entities that are subject to the respective enforcement authority of such agencies and authorities, shall prescribe regulations to implement this Act.

(b) COORDINATION.—Each agency and authority required to prescribe regulations under subsection (a) shall consult and coordinate with each other agency and authority identified in section 5 so that, to the extent possible, the regulations prescribed by each agency and authority are consistent and comparable.

(c) METHOD OF PROVIDING NOTICE TO CONSUMERS.—The regulations required under subsection (a) shall—

(1) prescribe the methods by which a covered entity shall notify a consumer of a breach of data security under section 3; and

(2) allow a covered entity to provide such notice by—

(A) written, telephonic, or e-mail notification; or

(B) substitute notification, if providing written, telephonic, or e-mail notification is not feasible due to—

(i) lack of sufficient contact information for the consumers that must be notified; or

(ii) excessive cost to the covered entity.

(d) CONTENT OF CONSUMER NOTICE.—The regulations required under subsection (a) shall—

(1) prescribe the content that shall be included in a notice of a breach of data security that is required to be provided to consumers under section 3; and

(2) require such notice to include—

(A) a description of the type of sensitive account information or sensitive personal information involved in the breach of data security;

(B) a general description of the actions taken by the covered entity to restore the security and confidentiality of the sensitive account information or sensitive personal information involved in the breach of data security; and

(C) the summary of rights of victims of identity theft prepared by the Commission under section 609(d) of the Fair Credit Reporting Act (15 U.S.C. 1681g), if the breach of data security involves sensitive personal information.

(e) TIMING OF NOTICE.—The regulations required under subsection (a) shall establish standards for when a covered entity shall provide any notice required under section 3.

(f) LAW ENFORCEMENT DELAY.—The regulations required under subsection (a) shall allow a covered entity to delay providing notice of a breach of data security to consumers under section 3 if a law enforcement agency requests such a delay in writing.

(g) SERVICE PROVIDERS.—The regulations required under subsection (a) shall—

(1) require any party that maintains or communicates sensitive account information or sensitive personal information on behalf of a covered entity to provide notice to that covered entity if such party determines that a breach of data security has, or may have, occurred with respect to such information; and

(2) ensure that there is only 1 notification responsibility with respect to a breach of data security.

(h) TIMING OF REGULATIONS.—The regulations required under subsection (a) shall—

(1) be issued in final form not later than 6 months after the date of enactment of this Act; and

(2) take effect not later than 6 months after the date on which they are issued in final form.

SEC. 5. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—Section 3, and the regulations required under section 4, shall be enforced exclusively under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) a national bank, a Federal branch or Federal agency of a foreign bank, or any subsidiary thereof (other than a broker, dealer, person providing insurance, investment company, or investment adviser), by the Office of the Comptroller of the Currency;

(B) a member bank of the Federal Reserve System (other than a national bank), a branch or agency of a foreign bank (other than a Federal branch, Federal agency, or insured State branch of a foreign bank), a commercial lending company owned or controlled by a foreign bank, an organization operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601,604), or a bank holding company and its nonbank subsidiary or affiliate (other than a broker, dealer, person providing insurance, investment company, or investment adviser), by the Board of Governors of the Federal Reserve System;

(C) a bank, the deposits of which are insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System), an insured State branch of a foreign bank, or any subsidiary thereof (other than a broker, dealer, person providing insurance, investment company, or investment adviser), by the Board of Directors of the Federal Deposit Insurance Corporation; and

(D) a savings association, the deposits of which are insured by the Federal Deposit Insurance Corporation, or any subsidiary thereof (other than a broker, dealer, person providing insurance, investment company, or investment adviser), by the Director of the Office of Thrift Supervision;

(2) the Federal Credit Union Act (12 U.S.C. 1751 et seq.), by the National Credit Union Administration Board with respect to any federally insured credit union;

(3) the Securities Exchange Act of 1934 (15 U.S.C.78a et seq.), by the Securities and Exchange Commission with respect to any broker or dealer;

(4) the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), by the Securities and Exchange Commission with respect to any investment company;

(5) the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.), by the Securities and Exchange Commission with respect to any investment adviser registered with the Securities and Exchange Commission under that Act;

(6) the Commodity Exchange Act (7 U.S.C. 1 et seq.), by the Commodity Futures Trading Commission with respect to any futures commission merchant, commodity trading advisor, commodity pool operator, or introducing broker;

(7) the provisions of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4501 et seq.), by the Director of Federal Housing Enterprise Oversight (and any successor to such functional regulatory agency) with respect to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and any other entity or enterprise (as defined in that title) subject to the jurisdiction of such functional regulatory agency under that title, including any affiliate of any such enterprise;

(8) State insurance law, in the case of any person engaged in providing insurance, by the applicable State insurance authority of the State in which the person is domiciled; and

(9) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), by the Commission for any other covered entity that is not subject to the jurisdiction of any agency or authority described under paragraphs (1) through (8).

(b) EXTENSION OF FEDERAL TRADE COMMISSION ENFORCEMENT AUTHORITY.—The authority of the Commission to enforce compliance with section 3, and the regulations required under section 4, under subsection (a)(8) shall—

(1) notwithstanding the Federal Aviation Act of 1958 (49 U.S.C. App. 1301 et seq.), include the authority to enforce compliance by air carriers and foreign air carriers; and

(2) notwithstanding the Packers and Stockyards Act (7 U.S.C. 181 et seq.), include the authority to enforce compliance by persons, partnerships, and corporations subject to the provisions of that Act.

(c) NO PRIVATE RIGHT OF ACTION.—

(1) IN GENERAL.—This Act, and the regulations prescribed under this Act, may not be construed to provide a private right of action, including a class action with respect to any act or practice regulated under this Act.

(2) CIVIL AND CRIMINAL ACTIONS.—No civil or criminal action relating to any act or practice governed under this Act, or the regulations prescribed under this Act, shall be commenced or maintained in any State court or under State law, including a pendent State claim to an action under Federal law.

SEC. 6. PROTECTION OF INFORMATION AT FEDERAL AGENCIES.

(a) DATA SECURITY STANDARDS.—Each agency shall implement appropriate standards relating to administrative, technical, and physical safeguards—

(1) to insure the security and confidentiality of the sensitive account information and sensitive personal information that is maintained or is being communicated by, or on behalf of, that agency;

(2) to protect against any anticipated threats or hazards to the security of such information; and

(3) to protect against misuse of such information, which could result in substantial harm or inconvenience to a consumer.

(b) SECURITY BREACH NOTIFICATION STANDARDS.—Each agency shall implement appropriate standards providing for notification of consumers when such agency determines that sensitive account information or sensitive personal information that is maintained or is being communicated by, or on behalf of, such agency—

(1) has been acquired without authorization; and

(2) is reasonably likely to be misused in a manner causing substantial harm or inconvenience to the consumers to whom the information relates.

SEC. 7. RELATION TO STATE LAW.

No requirement or prohibition may be imposed under the laws of any State with respect to the responsibilities of any person to—

(1) protect the security of information relating to consumers that is maintained or communicated by, or on behalf of, such person;

(2) safeguard information relating to consumers from potential misuse;

(3) investigate or provide notice of the unauthorized access to information relating to consumers, or the potential misuse of such information for fraudulent, illegal, or other purposes; or

(4) mitigate any loss or harm resulting from the unauthorized access or misuse of information relating to consumers.

SEC. 8. DELAYED EFFECTIVE DATE FOR CERTAIN PROVISIONS.

(a) COVERED ENTITIES.—Sections 3 and 7 shall take effect on the later of—

(1) 1 year after the date of enactment of this Act; or

(2) the effective date of the final regulations required under section 4.

(b) AGENCIES.—Section 6 shall take effect 1 year after the date of enactment of this Act.

By Mr. LUGAR:

S. 3581. A bill to implement certain defense trade treaties; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise today to introduce the Defense Trade Treaty Implementation Act of 2010.

The purpose of this bill is to provide authority to implement two treaties on defense trade cooperation currently pending before the Senate—one with the United Kingdom and one with Australia. These treaties would facilitate defense cooperation with two close allies by eliminating licensing requirements for certain categories of defense articles.

I have long supported the objectives of these treaties. Indeed, in 2003—before the treaties were negotiated—I introduced legislation that would have provided the President the authority to waive licensing requirements for similar defense trade with the United Kingdom and Australia.

Subsequently, the Bush administration negotiated these treaties, and they were submitted to the Senate in 2007. To date, the Senate has not been able to act on the treaties, in significant part because of confusion and uncertainty about how they would be implemented and enforced in U.S. law.

This legislation would address the problem by providing clear legislative authority under the Arms Export Control Act to implement and enforce the treaties. In particular, it would provide authority to exempt from licensing requirements under the Arms Export Control Act exports of defense articles made in connection with the treaties.

It would provide authority for the President to issue regulations pursuant to the Arms Export Control Act to implement and enforce the treaties. It would provide authority to allow violations or abuses of the treaty to be prosecuted under enforcement provisions of the Arms Export Control Act. It would provide for notification to the Congress of significant exports of defense articles made pursuant to the treaties.

Previous efforts by both the Bush and Obama administrations to develop a viable approach for implementing and enforcing the treaties without new legislation have been unsuccessful to date, and have created unfortunate delays in bringing these treaties into force. I believe that this legislation will put the implementation and enforcement of the treaties on a far sounder and more certain footing, and eliminate the confusion that has led to these delays.

I look forward to working with other members and with the administration on this legislation. It is my hope that passage of this legislation, together with a resolution of advice and consent to the treaties containing appropriate protections for the Senate's role in overseeing arms exports and approving significant future changes to the treaty regime, may allow the treaties to enter into force this year.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3581

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Defense Trade Treaty Implementation Act of 2010''.

SEC. 2. EXEMPTION FROM REQUIREMENTS FOR BILATERAL AGREEMENTS.

Section 38(j)(1) of the Arms Export Control Act (22 U.S.C. 2778(j)(1)) is amended—

(1) in the subparagraph heading for subparagraph (B), by inserting ''FOR CANADA'' after ''EXCEPTION''; and

(2) by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR DEFENSE TRADE COOPERATION TREATIES.—The requirement to conclude a bilateral agreement in accordance with subparagraph (A) shall not apply with respect to an exemption from the licensing requirements of this Act for the export of defense items to give effect to any of the following defense trade cooperation treaties, provided that the treaty has entered into force pursuant to Article II, Section 2, clause 2 of the Constitution of the United States:

''(i) The Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington and London June 21 and 26, 2007 (and any implementing arrangement thereto).

''(ii) The Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, done at Sydney September 23, 2007 (and any implementing arrangement thereto).''.

SEC. 3. ENFORCEMENT.

(a) CRIMINAL VIOLATIONS.—Section 38(c) of such Act is amended by striking ''this section or section 39, or any rule or regulation issued under either section'' and inserting ''this section, section 39, a treaty referred to in subsection (j)(1)(C), or any rule or regulation issued under this section or section 39, including any rule or regulation issued under this section to implement or enforce a treaty referred to in subsection (j)(1)(C) or an implementing arrangement pursuant to such treaty''.

(b) ENFORCEMENT POWERS OF PRESIDENT.—Section 38(e) of such Act is amended by striking ''defense services,'' and inserting ''defense services, including defense articles and defense services exported or imported pursuant to a treaty referred to in subsection (j)(1)(C),''.

(c) NOTIFICATION REGARDING EXEMPTIONS FROM LICENSING REQUIREMENTS.—Section 38(f) of such Act is amended by adding at the end the following new paragraph:

''(4) Paragraph (2) shall not apply with respect to an exemption under subsection (j)(1)(A) to give effect to a treaty referred to in subsection (j)(1)(C) (and any implementing arrangements to such treaty), provided that the President promulgates regulations to implement and enforce such treaty under this section and section 39.''.

SEC. 4. CONGRESSIONAL NOTIFICATION.

(a) ELIGIBILITY FOR DEFENSE ARTICLES OR DEFENSE ARTICLES.—Section 3(d)(3)(A) of such Act (22 U.S.C. 2753(d)(3)(A)) is amended by inserting after ''approved under section 38 of this Act'' the following: ''or has been exempted from the licensing requirements of this Act pursuant to section 38(j) of this Act''.

(b) PRESIDENTIAL CERTIFICATIONS.—

(1) EXPORT LICENSES.—Section 36(c) of such Act (22 U.S.C. 2776(c)) is amended by adding at the end the following new paragraph:

''(6) An export pursuant to a treaty referred to in section 38(j)(1)(C) of this Act to which the provisions of paragraph (1) would apply absent an exemption granted under section 38(j)(1) of this Act shall not take place until 15 days after the President has submitted a certification with respect to such export in a similar manner, and containing comparable information, as required under paragraph (1).''.

(2) COMMERCIAL TECHNICAL ASSISTANCE OR MANUFACTURING LICENSING AGREEMENTS.—Section 36(d) of such Act (22 U.S.C. 2776(d)) is amended by adding at the end the following new paragraph:

''(6) An export pursuant to a treaty referred to in section 38(j)(1)(C) of this Act to which the provisions of paragraph (1) would apply absent an exemption granted under section 38(j)(1) of this Act shall not take place until 15 days after the President has submitted a certification with respect to such export in a similar manner, and containing comparable information, as required under paragraph (1).''.

SEC. 5. IMPLEMENTING REGULATIONS.

The President is authorized to issue regulations pursuant to the Arms Export Control Act (22 U.S.C. 2751 et seq.) to implement and enforce the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington and London June 21 and 26, 2007 (and any implementing arrangement thereto), and the Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, done at Sydney September 23, 2007 (and any implementing arrangement thereto), consistent with other applicable provisions of the Arms Export Control Act, as amended by this Act, and with the terms of any resolution of advice and consent adopted by the Senate with respect to either treaty.

SEC. 6. RULE OF CONSTRUCTION.

Nothing in this Act, or in the Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland Concerning Defense Trade Cooperation, done at Washington and London on June 21 and 26, 2007 (and any implementing arrangement thereto), or in the Treaty Between the Government of the United States of America and the Government of Australia Concerning Defense Trade Cooperation, done at Sydney, September 23, 2007 (and any implementing arrangement thereto), or in any regulation issued to implement either treaty, shall be construed to modify or supersede any provision of law or regulation other than the Arms Export Control Act (22 U.S.C. 2751 et seq.), as amended by this Act, and regulations issued pursuant to such Act.

By Mr. UDALL of Colorado (for himself and Mr. BENNET):

S. 3585. A bill to amend title 10, United States Code, to reform Department of Defense energy policy, and for other purposes; to the Committee on Armed Services.

Mr. UDALL of Colorado. Mr. President, today I am introducing legislation to help the Pentagon turn energy from a source of risk to a source of advantage. The Department of Defense, DOD, Energy Security Act would decrease the Pentagon's consumption of petroleum, reduce reliance on the grid, and help plan for the future. All of this would help achieve an important goal that we all support: enhancing our national security.

I am grateful to my former colleague on the House Armed Services Committee, Representative GABRIELLE GIFFORDS of Arizona, who introduced the counterpart bill in the House of Representatives. I am also grateful to Senator BENNET for cosponsoring this legislation. I look forward to continuing to work with both of them on this important legislation and on this important issue.

As a member of the Senate Armed Services Committee and of the Energy and Natural Resources Committee, I have focused on the intersection of defense and energy for some time.

The United States is the world's largest consumer of energy. We depend on foreign imports for nearly 60 percent of our oil. Nearly every military challenge we face is either derived from or impacted by our reliance on fossil fuels and foreign energy sources.

The Pentagon is a large microcosm of this even larger problem. The U.S. military is the single largest consumer of energy in the world—consuming more energy per day than 85 percent of the world's countries. It is the largest electricity consumer in the federal government and the single largest buyer of fuel in the United States—using 2 percent of our total national consumption.

Energy supply security affects DOD's ability to accomplish its mission, and

efforts to secure supply lines and deliver fuel in-theater directly result in the deaths of service members charged with protecting it. But our military's reliance is not just on the battlefield. At home, defense facilities rely on a fragile national grid, leaving critical assets vulnerable. The Defense Science Board found in its 2008 report ''More Fight—Less Fuel'' that ''critical national security and homeland defense missions are at an unacceptably high risk of extended outage from failure of the grid.''

The Pentagon's energy consumption has serious national security implications, but it also presents opportunities. As the Logistics Management Institute wrote, ''Aggressively developing and applying energy-saving technologies to military applications would potentially do more to solve the most pressing long-term challenges facing DOD and our national security than any other single investment area.''

That is why I am introducing this legislation. The Department of Defense Energy Security Act addresses energy supply and use by decreasing consumption by facilities and vehicles and increasing the use of renewable electricity sources to relieve the Department's reliance on external power sources. In addition, the bill sets overarching policies to implement sustainable acquisition practices, sets new DOD Energy Performance Goals, and requires DOD to develop an Energy Performance Plan and an implementation assessment for accomplishing its goal of deriving 25 percent of its electricity from renewable sources by 2025.

Utilizing alternative energy sources and energy efficiency technologies can help our military increase energy reliability and reduce its dependence on oil; improve efficiency in operations, platforms, and vehicles; reduce the costs to taxpayers of military-consumed electricity and fuel; expand portable clean technology options for use in combat and logistics; act as an anchor customer for the alternative fuels and energy efficiency industries; and reduce grid vulnerabilities at our military installations.

Reducing our reliance on fossil fuels and foreign sources of energy is a goal we all share. Helping the Defense Department achieve this goal should be a national priority. I urge my colleagues—of both parties—to join me in supporting this legislation.

By Mr. REID (for himself, Mr. TESTER, Mr. MERKLEY, Mr. UDALL of Colorado, and Mr. BEGICH):

S. 3586. A bill to promote the mapping and development of United States geothermal resources by establishing a direct loan program for high risk geothermal exploration wells; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3586

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Geothermal Exploration Act of 2010''.

SEC. 2. GEOTHERMAL EXPLORATORY DRILLING LOAN PROGRAM.

(a) DEFINITIONS.—In this section:

(1) FUND.—The term ''Fund'' means the Geothermal Investment Fund established under subsection (h).

(2) PROGRAM.—The term ''program'' means the direct loan program for high risk geothermal exploration wells established under this section.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy

(b) ESTABLISHMENT.—The Secretary shall establish a direct loan program for high risk geothermal exploration wells.

(c) APPLICATIONS.—An applicant that seeks to receive a loan under the program may submit to the Secretary an application for the loan at such time, in such form, and containing such information as the Secretary may prescribe.

(d) PROJECT CRITERIA.—

(1) IN GENERAL.—In selecting applicants for loans under this section to carry out projects under the program, the Secretary shall consider—

(A) the potential for unproven geothermal resources that would be explored and developed under a project;

(B) the expertise and experience of an applicant in developing geothermal resources; and

(C) the importance of the project in meeting the goals of the Department of Energy.

(2) PREFERENCE.—In selecting applicants for loans under this section to carry out projects under the program, the Secretary shall provide a preference for previously unexplored, underexplored, or unproven geothermal resources in a variety of geologic and geographic settings.

(e) DATA SHARING.—Data from all exploratory wells that are carried out under the program shall be provided to the Secretary and the Secretary of the Interior for use in mapping national geothermal resources and other uses, including—

(1) subsurface geologic data;

(2) metadata;

(3) borehole temperature data; and

(4) inclusion in the National Geothermal Data System of the Department of Energy.

(f) ADMINISTRATION.—

(1) COST SHARE.—

(A) IN GENERAL.—The Secretary shall determine the cost share for a loan made under this section.

(B) HIGHER RISKS.—The Secretary may base the cost share percentage for loans made under this section on a sliding scale, with higher Federal shares awarded to projects with higher risks.

(2) NUMBER OF WELLS.—The Secretary shall determine the number of wells for each selected geothermal project for which a loan may be made under this section.

(3) UNPRODUCTIVE PROJECTS.—The Secretary may grant further delays or dispense with the repayment obligation on a demonstration that a selected geothermal project is unproductive.

(g) LOAN REPAYMENT.—

(1) COMMENCEMENT.—The recipient of a loan made under this section for a geothermal facility shall commence repayment of the loan beginning on the earlier of—

(A) the date that is 4 years after the date the loan is made; or

(B) the date on which the geothermal facility enters into commercial production.

(2) TERM.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term of a loan made under this section shall be 4 years beginning on the applicable loan repayment commencement date under paragraph (1).

(B) EXTENSION.—The Secretary may extend the term of a loan under this section for not more than 4 years.

(3) USE OF LOAN REPAYMENTS.—Amounts repaid on loans made under this section shall be deposited in the Fund.

(h) GEOTHERMAL INVESTMENT FUND.—

(1) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the ''Geothermal Investment Fund'', to be administered by the Secretary, to be available without fiscal year limitation and not subject to appropriation, to carry out this section.

(2) TRANSFERS TO FUND.—The Fund shall consist of such amounts as are appropriated to the Fund under subsection (j).

(3) PROHIBITION.—Amounts in the Fund may not be made available for any purpose other than a purpose described in paragraph (1).

(4) ANNUAL REPORTS.—

(A) IN GENERAL.—Not later than 60 days after the end of each fiscal year beginning with fiscal year 2011, the Secretary of Energy shall submit to the the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the operation of the Fund during the fiscal year.

(B) CONTENTS.—Each report shall include, for the fiscal year covered by the report, the following:

(i) A statement of the amounts deposited into the Fund.

(ii) A description of the expenditures made from the Fund for the fiscal year, including the purpose of the expenditures.

(iii) Recommendations for additional authorities to fulfill the purpose of the Fund.

(iv) A statement of the balance remaining in the Fund at the end of the fiscal year.

(i) GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop guidelines for the implementation of the program.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2011 through 2020.

By Mr. REID (for himself and Mr. TESTER):

S. 3587. A bill to require the Secretary of the Interior to establish a competitive leasing program for wind and solar energy development on Federal land, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3587

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Clean Energy, Community Investment, and Wildlife Conservation Act''.

SEC. 2. DEVELOPMENT OF WIND AND SOLAR ENERGY ON FEDERAL LAND.

(a) DEFINITIONS.—In this section:

(1) FEDERAL LAND.—The term ''Federal land'' means any Federal land under the administrative jurisdiction of the Bureau of Land Management or the Forest Service.

(2) FUND.—The term ''Fund'' means the Renewable Energy Mitigation and Fish and Wildlife Fund established by section 3(b).

(3) PILOT PROGRAM.—The term ''pilot program'' means the wind and solar leasing pilot program established under subsection (b).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means the State within the boundaries of which income is derived under a lease issued under this section.

(b) WIND AND SOLAR LEASING PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish a wind and solar leasing pilot program for Federal land.

(2) SELECTION OF SITES.—

(A) IN GENERAL.—Not later than 90 days after the date on which the pilot program is established, the Secretary shall select not fewer than 2 sites that are appropriate for the development of a solar energy project, and not fewer than 2 sites that are appropriate for the development of a wind energy project, on Federal land as part of the pilot program.

(B) SITE SELECTION.—In carrying out subparagraph (A), the Secretary shall seek to select sites on Federal land—

(i) for which there is likely to be a high level of industry interest; and

(ii) that has comparatively low value for other resources.

(C) EXCLUSIONS.—For purposes of this Act only, Federal land suitable for wind and solar development does not include—

(i) any unit of the National Wildlife Refuge System;

(ii) any component of the National Wild and Scenic Rivers System;

(iii) any part of the National Landscape Conservation System;

(iv) any designated wilderness area, wilderness study area, or other area managed for wilderness characteristics;

(v) any inventoried roadless area within the National Forest System;

(vi) any National Historic Landmark;

(vii) any National Historic District or an Archaeological District eligible for or listed in the National Register of Historic Places; or

(viii) other sensitive land, as determined by the Secretary.

(D) COORDINATION WITH COUNTIES.—In selecting sites under the pilot program, the Secretary shall—

(i) coordinate site selection activities with the county and State land management and wildlife agencies in whose jurisdiction the Federal land is located; and

(ii) take into consideration local land use planning and zoning requirements and recommendations.

(3) CONSULTATION.—In establishing the pilot program and the wind or solar leasing programs under subsection (c), the Secretary shall consult with—

(A) appropriate Federal agencies, including the Department of Defense;

(B) affected States and counties;

(C) Indian tribes;

(D) representatives of the wind and solar industries;

(E) representatives of the environmental, conservation, and fish and wildlife conservation communities;

(F) representatives of the motorized and nonmotorized outdoor recreation communities;

(G) representatives of the ranching and agricultural communities; and

(H) the public.

(4) WIND AND SOLAR LEASE SALES.—

(A) IN GENERAL.—Except as provided in subparagraph (C)(ii), not later than 180 days after the date on which sites are selected under paragraph (2), the Secretary shall offer each site for competitive leasing to qualified bidders under such terms and conditions as are required by the Secretary.

(B) BIDDING SYSTEMS.—In offering the sites for lease, the Secretary—

(i) may vary the bidding systems to be used at each lease sale; but

(ii) shall limit bidding to 1 round in any lease sale.

(C) LEASE TERMS.—

(i) IN GENERAL.—As part of the pilot program, the Secretary may vary the length of the lease terms and establish such other lease terms and conditions as the Secretary considers appropriate.

(ii) DATA COLLECTION.—As part of the pilot program, the Secretary shall—

(I) offer on a noncompetitive basis on at least 1 site a short-term lease for data collection; and

(II) on the expiration of the short-term lease, offer on a competitive basis a long-term lease, giving credit toward the bonus bid to the holder of the short-term lease for any qualified expenditures to collect data to develop the site during the short-term lease.

(D) QUALIFICATIONS.—Prior to any lease sale, the Secretary shall establish qualifications for bidders that ensures bidders—

(i) are able to expeditiously develop a wind or solar energy project on the site for lease; and

(ii) possess—

(I) financial resources necessary to complete a project;

(II) knowledge of the applicable technology; and

(III) such other qualifications as determined appropriate by the Secretary.

(5) COMPLIANCE WITH LAWS.—In offering for lease the selected sites under (4), the Secretary shall comply with all applicable environmental and other laws.

(6) REPORT.—The Secretary shall—

(A) compile a report of the results of each lease sale under the pilot program, including—

(i) the level of competitive interest;

(ii) a summary of bids and revenues received; and

(iii) any other factors that may have impacted the lease sale process; and

(B) not later than 90 days after the final lease sale, submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives the report described in subparagraph (A).

(c) LEASING PROGRAM FOR WIND AND SOLAR ENERGY.—

(1) DETERMINATIONS.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall determine whether to establish leasing programs under this section for wind and solar energy.

(B) REQUIREMENTS.—Not later than 180 days after the date on which any determination under subparagraph (A) is made, the Secretary shall establish a leasing program if the Secretary determines that the program—

(i) is in the public interest; and

(ii) provides an effective means of developing wind or solar energy on Federal land.

(C) REPORT.—If the Secretary determines that a leasing program should not be established, not later than 60 days after the date of the determination, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report describing the reasons and findings for that determination.

(2) LEASES FOR CERTAIN FEDERAL LAND.—

(A) IN GENERAL.—If the Secretary makes the determination to establish a leasing program under this section, except as provided in subparagraph (B) and pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.), the Secretary may develop policy and regulations for, and issue leases on, Federal land under the administrative jurisdiction of the Bureau of Land Management and the Forest Service.

(B) EXCEPTION.—The Secretary may not issue any lease on National Forest System land under subparagraph (A) over the objection of the Secretary of Agriculture.

(3) CONSULTATION AND CONSIDERATIONS.—In making the determinations required under this subsection, the Secretary shall—

(A) consult with—

(i) appropriate Federal agencies, including the Department of Defense;

(ii) affected States and counties;

(iii) Indian tribes;

(iv) representatives of the wind and solar industry;

(v) representatives of the environmental, conservation, and fish and wildlife conservation communities;

(vi) representatives of the motorized and nonmotorized outdoor recreation communities;

(vii) representatives of the ranching and agricultural communities; and

(viii) the public; and

(B) consider the results of the report provided under subsection (b)(6) and the results of the pilot program.

(4) REQUIREMENTS.—If the Secretary determines under this subsection that a leasing program should be established, the program shall be carried out in accordance with subsections (d) through (i).

(d) COMPETITIVE LEASES.—

(1) IN GENERAL.—Except as provided in paragraph (2), leases for wind or solar energy development under this section shall be issued on a competitive basis with a single round of bidding in any lease sale.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to Federal land if the Secretary determines that—

(A) there is no competitive interest for the Federal land;

(B) the public interest would not be served by the competitive issuance of a lease;

(C) the lease is for the placement and operation of a meteorological or data collection facility or for the development or demonstration of a new wind or solar technology and has a term of not more than 5 years;

(D) meteorological testing tower or other data collection device has been installed under an approved easement, special-use permit, or right-of-way issued before the date of enactment of this Act; or

(E) the Federal land is eligible to be granted a noncompetitive lease under subsection (e)(3).

(e) TRANSITION TO LEASING.—

(1) IN GENERAL.—The Secretary shall continue to accept applications for rights-of-way, review the applications, and provide for the issuance of rights-of-way for the development of wind or solar energy on Federal land in accordance with each requirement described in title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.) during the pilot program and until the

Secretary determines to establish wind and solar leasing programs under subsection (c).

(2) ADMINISTRATION.—If the Secretary determines under subsection (c) that a leasing program should be established, the Secretary shall provide for a reasonable transition from the use of rights-of-way to leases, taking into account paragraphs (3) and (4) and the status of the project, including whether—

(A) rights-of-way for testing or construction have been granted;

(B) a plan of development has been submitted; or

(C) a draft environmental impact statement has been published.

(3) EXISTING RIGHTS-OF-WAY.—

(A) IN GENERAL.—Effective beginning on the date on which the wind and solar leasing programs are established, the Secretary shall not renew an existing right-of-way authorization for wind and solar energy development at the end of the term of the authorization.

(B) LEASE.—

(i) IN GENERAL.—Subject to clause (ii), at the end of the term of the right-of-way authorization for the wind or solar energy project, the Secretary may grant, without a competitive process, a lease to the holder of the right-of-way for the same Federal land as was authorized under the right-of-way authorization.

(ii) TERMS AND CONDITIONS.—Any lease described in clause (i) shall be subject to the terms and conditions generally applicable to other lease sales for similar projects at the time the lease is issued.

(4) PENDING RIGHTS-OF-WAY.—Effective beginning on the date on which the wind and solar leasing programs are established, the Secretary may provide any applicant that has filed a plan of development for a right-of-way for a wind or solar energy project with an option to acquire a noncompetitive lease, under such terms and conditions as are required by this section and the Secretary, for the same Federal land included in the plan of development, if—

(A) the plan of development has been determined by the Secretary to be adequate for the initiation of environmental review; and

(B) granting the lease is consistent with all applicable land use planning, environmental, and other laws.

(f) REQUIREMENTS.—If the Secretary establishes a leasing program under subsection (c), the Secretary shall ensure that any activity under the wind and solar leasing program is carried out in a manner that—

(1) is consistent with all applicable land use planning, environmental, and other laws; and

(2) provides for—

(A) safety;

(B) protection of the environment;

(C) prevention of waste;

(D) diligent development of the resource, with specific milestones determined by the Secretary;

(E) coordination with applicable Federal agencies;

(F) use of best management practices, including planning and practices for mitigation of impacts;

(G) public notice and comment on any proposal submitted for a lease under this section;

(H) oversight, inspection, research, monitoring, and enforcement relating to a lease under this section;

(I) protection of fish and wildlife habitat; and

(J) efficient use of water resources.

(g) LEASE DURATION, SUSPENSION, AND CANCELLATION.—

(1) IN GENERAL.—If the Secretary establishes a leasing program under subsection (c), subject to paragraph (2), the Secretary shall establish terms and conditions for the duration, issuance, transfer, renewal, suspension, and cancellation of a lease under this section.

(2) MINIMUM TERM.—A wind or solar project with a total capacity of 100 megawatts or more shall be leased for not less than 30 years under this section.

(h) SECURITY.—If the Secretary establishes a leasing program under subsection (c), the Secretary shall require the holder of a lease issued under this section—

(1) to furnish a reclamation bond or other form of security determined to be appropriate by the Secretary;

(2) on completion of the activities authorized by the lease—

(A) to restore the Federal land that is subject to the lease to the condition in which the Federal land existed before the lease was granted; or

(B) to conduct mitigation activities (or payment of funds to be transferred to the Fund in lieu of the activities) if the Secretary determines that restoration of the Federal land to the condition described in subparagraph (A) is impracticable; and

(3) to comply with such other requirements as the Secretary considers necessary to protect the interests of the public and the United States.

(i) BEST MANAGEMENT PRACTICES.—The Secretary shall—

(1) establish best management practices to ensure the sound, efficient, and environmentally responsible development of wind and solar resources on the Federal land in a manner that will minimize consumptive water use, and avoid, minimize, and mitigate actual and anticipated impacts to fish and wildlife habitat and ecosystem function, resulting from development under a lease issued under this section; and

(2) include—

(A) provisions in the lease requiring renewable energy operators to comply with the practices established under paragraph (1); and

(B) such other provisions as the Secretary considers appropriate.

(j) PAYMENTS.—

(1) IN GENERAL.—The Secretary shall establish royalties, fees, rentals, bonuses, or other payments to ensure a fair return to the United States, States, and counties for any right-of-way or lease issued for a wind or solar project on Federal land.

(2) COLLECTION OF PAYMENTS.—

(A) IN GENERAL.—Prior to the collection of royalties under paragraph (4), the Secretary shall collect payments for wind and solar projects in accordance with section 504(g) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(g)).

(B) EXCEPTION.—Wind or solar energy leases issued under this section shall not be subject to the rental fee exemption for rights-of-way under section 504(g) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(g)).

(3) BONUS BIDS.—The Secretary may grant credit toward any bonus bid for a qualified expenditure by the holder of a lease described in subsection (d)(2)(C) in any competitive lease sale held for a long-term lease covering the same Federal land covered by the lease described in subsection (d)(2)(C).

(4) ROYALTIES.—Except as provided in paragraph (6), the Secretary shall develop and enforce a royalty on electricity produced by wind and solar projects on Federal land that—

(A) encourages production of wind or solar energy;

(B) encourages the maximum energy generation using the least quantity of Federal land and other natural resources, including water;

(C) ensures a fair return (comparable to the return that would be obtained on State and private land) to the public, States, and counties eligible to receive a portion of the revenues under section 3(a); and

(D) encourages the use of energy storage technologies that increase the capacity factor of wind or solar energy generation facilities.

(5) RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Secretary shall complete a rulemaking for wind energy and solar energy royalty rates.

(6) ROYALTY RELIEF.—Subject to paragraph (2)(B), to promote the greatest generation of renewable energy, the Secretary may, until fiscal year 2040, provide that no royalty or a reduced royalty is required for a period not to exceed 5 years beginning on the date on which wind or solar generation is initially commenced on the Federal land.

(k) SEGREGATION FROM APPROPRIATION UNDER MINING AND FEDERAL LAND LAWS.—

(1) IN GENERAL.—On selection of Federal land for leasing under this section, the Secretary may temporarily segregate the selected Federal land from appropriation under the mining and public land laws.

(2) ADMINISTRATION.—Segregation of Federal land under this subsection—

(A) may only be made for a period of not to exceed 10 years; and

(B) shall be subject to valid existing rights as of the date of the segregation.

SEC. 3. DISPOSITION OF REVENUE.

(a) DISTRIBUTION OF PROCEEDS AND PAYMENTS.—

(1) IN GENERAL.—Effective beginning on the date of enactment of this Act, all amounts collected by the Secretary as royalties, fees, rentals, bonuses, or other payments for wind and solar projects on Federal land, including any fees associated with wind and solar energy rights-of-way, shall be distributed as follows:

(A) 25 percent shall be paid by the Secretary of the Treasury to the State within the boundaries of which the income is derived.

(B) 25 percent shall be paid by the Secretary of the Treasury to the 1 or more counties within the boundaries of which the income is derived.

(C) 15 percent shall—

(i) for the period beginning on the date of enactment of this Act and ending on the date specified in clause (ii), be deposited in the Treasury of the United States to help facilitate the processing of renewable energy permits by the Bureau of Land Management, subject to paragraph (2)(A)(i), including the transfer of the funds by the Bureau of Land Management to other Federal and State agencies to facilitate the processing of renewable energy permits on Federal land; and

(ii) beginning on the date that is 10 years after the date of enactment of this Act, be deposited in the Fund.

(D) 35 percent shall be deposited in the Fund.

(2) LIMITATIONS.—

(A) RENEWABLE ENERGY PERMITS.—For purposes of clause (i) of paragraph (1)(C):

(i) Not more than $50,000,000 shall be deposited in the Treasury at any 1 time under that clause.

(ii) The following shall be deposited in the Fund:

(I) Any amounts collected under that subclause that are not obligated by the date specified in paragraph (1)(C)(ii).

(II) Any amounts that exceed the $50,000,000 deposit limit under clause (i).

(III) Any amounts provided by the lease holder pursuant to section 2(h)(2)(B).

(B) FUND.—Any amounts deposited in the Fund under subparagraph (A)(ii) or paragraph (1)(C)(ii) shall be in addition to amounts deposited in the Fund under paragraph (1)(D).

(3) AVAILABILITY OF FUNDS.—Funds under this subsection shall be available for expenditure without further appropriation and without fiscal year limitation.

(b) RENEWABLE ENERGY MITIGATION AND FISH AND WILDLIFE FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the ''Renewable Energy Mitigation and Fish and Wildlife Fund'', to be administered by the Secretary, for use in the State.

(2) USE OF FUNDS.—Amounts in the Fund shall be available to the Secretary, who may make the amounts available to the State, Federal agencies, or other interested parties for the purposes of—

(A) mitigating impacts of renewable energy on Federal land, including—

(i) protecting fish and wildlife corridors and other sensitive land; and

(ii) restoring fish and wildlife habitat; and

(iii) securing recreational access to Federal land through easement, right of way, or fee title acquisition from willing sellers for the purpose of providing enhanced public access to existing Federal land that is inaccessible or significantly restricted; and

(B) carrying out activities authorized under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.) in the State.

(3) AVAILABILITY OF AMOUNTS.—Amounts in the Fund shall be available for expenditure, in accordance with this subsection, without further appropriation, and without fiscal year limitation.

(4) INVESTMENT OF FUND.—

(A) IN GENERAL.—Any amounts deposited in the Fund shall earn interest in an amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities.

(B) USE.—Any interest earned under subparagraph (A) may be expended in accordance with this subsection.

SEC. 4. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 581—HONORING THE EDUCATIONAL AND SCIENTIFIC SIGNIFICANCE OF DR. JANE GOODALL ON THE 50TH ANNIVERSARY OF THE BEGINNING OF HER WORK IN WHAT IS TODAY GOMBE STREAM NATIONAL PARK IN TANZANIA

Mr. UDALL of New Mexico submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 581

Whereas on July 14, 1960, Dr. Jane Goodall arrived at Gombe Stream Chimpanzee Reserve in what is today Tanzania;

Whereas Dr. Goodall's research led to numerous groundbreaking discoveries including the creation and use of tools by chimpanzees;

Whereas these and other behavioral observations of chimpanzees forever changed human understanding of the differences between humans and other animal species;

Whereas between 1968 and 1986, Dr. Goodall published a collection of articles and books that remain the foundational scientific works on chimpanzee and wildlife studies;

Whereas her book, The Chimpanzees of Gombe: Patterns of Behavior published by Harvard University Press, details the range of behaviors that make up the essential corpus of chimpanzee natural history and remains today a critical reference for researchers in the field;

Whereas Dr. Goodall's writings not only formed the bedrock of the descriptive analytical study of chimpanzees, they also altered the paradigm of the study of culture in chimpanzees and other animals, especially species with complex social behaviors;

Whereas in support of the research she began, and to advance her vision, Dr. Goodall established the Gombe Stream Research Center in 1965 and the Jane Goodall Institute in 1977;

Whereas researchers in many other institutions continue to carry out pathbreaking analyses related to chimpanzee behavior based on Dr. Goodall's original scientific work;

Whereas scientists continue to make new discoveries in the field of chimpanzee and wildlife studies today;

Whereas since 1986, Dr. Goodall has advocated for the conservation of chimpanzees and other species, for the protection of the natural world, for the care of chimpanzees and other animals in captivity, and for world peace;

Whereas Dr. Goodall travels the world approximately 300 days a year, delivering dozens of lectures and engaging with youth of all ages;

Whereas Dr. Goodall has been a leader in mobilizing community involvement in conservation and continues to practice and promote conservation efforts based on the important link between human welfare and environmental stewardship;

Whereas Dr. Goodall has received the highest honors in her field;

Whereas in 2008, she was awarded the Leakey Prize, the nation's most prestigious award in human evolutionary science;

Whereas the Leakey Prize has only been given 7 times in the past 4 decades;

Whereas in 2007, she received the Harvard Museum of Natural History's Roger Tory Peterson Medal, and in 1989, she received the Anthropologist of the Year Award;

Whereas in 1995, she received the National Geographic Society's Hubbard Medal ''for her extraordinary 35-year study of wild chimpanzees and for tirelessly defending the natural world we share'';

Whereas Dr. Goodall's numerous honors include the Medal of Tanzania, Japan's prestigious Kyoto Prize, the Benjamin Franklin Medal in Life Science, the United Nations Educational, Scientific and Cultural Organization's 60th Anniversary Medal, the Gandhi-King Award for Nonviolence, the Albert Schweitzer Award of the Animal Welfare Institute, the Encyclopedia Britannica Award for Excellence on the Dissemination of Learning for the Benefit of Mankind, and the French Legion of Honor, which was presented to her in Paris in 2004 by Prime Minister Dominique de Villepin;

Whereas in April 2002, United Nations Secretary-General Kofi Annan named Dr. Goodall a United Nations Messenger of Peace;

Whereas such Messengers help mobilize the public to become involved in work that makes the world a better place, serving as advocates in such areas as poverty eradication, human rights, peace and conflict resolution, HIV/AIDS, community development, and conservation;

Whereas upon becoming the new United Nations Secretary-General, Ban Ki-moon continued her appointment;

Whereas in 2004, in a ceremony at Buckingham Palace, Prince Charles invested Dr. Goodall as a Dame of the British Empire, the female equivalent of knighthood;

Whereas during the last half of the 20th century, she blazed a trail for and inspired other women primatologists, such that women now dominate long-term primate behavioral studies worldwide;

Whereas Dr. Goodall has been a role model for youth of all ages, inspiring boys and girls alike to take action for people, animals, and the environment; and

Whereas through her Jane Goodall Institute, she established the Roots & Shoots global youth program, which now has members in more than 120 countries: Now, therefore, be it

Resolved, That the United States Senate recognizes—

(1) the 50th anniversary of the beginning of Dr. Jane Goodall's work in what is now Tanzania, Africa, as significant in scientific history;

(2) the significant role that Dr. Goodall's work and scientific study have had on our knowledge and understanding of both the natural and human worlds; and

(3) recognizes the positive role that Dr. Goodall's work and research have had in education, science, and conservation alike.

Mr. UDALL of New Mexico. Mr. President, today I stand to recognize one of the greatest scientists and leaders of our time and to introduce a resolution honoring the educational and scientific significance of Dr. Jane Goodall on this the 50th anniversary of her first day's work in what is now Tanzania.

Fifty years ago today, Jane Goodall, a young and ambitious scientist, first set foot on the shores of Lake Tanganyika to begin her research under the direction of Dr. Louis Leakey. In the ensuing years, Dr. Goodall became the world's expert on chimpanzees. She had numerous groundbreaking discoveries. She published articles and books that remain the foundational scientific works on chimpanzee and wildlife studies. She established the Gombe Stream Research Center and the Jane Goodall Institute to support further research.

Jane has received many of the highest honors in her field and has become a prominent advocate for international conservation and peace. Consequently, she has been recognized and honored by political leaders and kings and queens throughout the world. The resolution I submit today recognizes Dr. Goodall for her past, present, and future contributions in the fields of science and conservation.

Beyond her incredible knowledge and skills in the sciences, Dr. Jane Goodall is an amazing human being. Her love of others and of the living things around her is what I believe drove her to achieve such great successes. Anyone